

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

ATTORNEY FOR APPELLANT:

**JANE G. COTTON**  
Anderson, Indiana

ATTORNEYS FOR APPELLEE:

**STEVE CARTER**  
Attorney General of Indiana

**MONIKA PREKOPA TALBOT**  
Deputy Attorney General  
Indianapolis, Indiana

---

**IN THE  
COURT OF APPEALS OF INDIANA**

---

MARCUS T. RANDALL,  
Appellant-Defendant,

vs.

STATE OF INDIANA,  
Appellee-Plaintiff.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

No. 48A05-0605-CR-259

---

APPEAL FROM THE MADISON SUPERIOR COURT  
The Honorable Dennis D. Carroll, Judge  
Cause No. 48D01-9707-CF-207

---

**September 27, 2006**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**CRONE, Judge**

## **Case Summary**

Marcus T. Randall challenges the revocation of his probation and the imposition of the remaining balance of his sentence. We affirm.

## **Issue**

We restate the issue as whether the State presented sufficient evidence that Randall violated his probation.

## **Facts and Procedural History**

On January 20, 1998, Randall pled guilty to aggravated battery, carrying a handgun without a permit, and criminal recklessness. On February 17, 1998, the trial court accepted a plea agreement submitted by Randall. Randall was sentenced to eighteen years with nine years executed and nine years suspended. As a part of the plea agreement, Randall agreed to four years of probation, subject to special conditions, following his jail term.

On November 18, 2005, less than two months after his release, the State filed new charges against Randall for unlawful possession of a firearm by a serious violent felon and resisting law enforcement. On November 22, 2005, the State filed a notice of probation violation alleging that Randall had violated four of the probation conditions, including that he “obey all laws of the State of Indiana and the United States, and to behave well in society.” Appellant’s App. at 34. At the evidentiary hearing on January 10, 2006, Randall admitted to violating three of the conditions stipulated in his probation agreement, but denied the new charges. His admissions included failure to find employment, to pay child support, and to participate in anger control treatment. The trial court found Randall guilty of the new

charges and in violation of his probation. Randall's probation was revoked, and he was ordered to serve eight years of the previously suspended sentence.

### **Discussion and Decision**

Randall argues that the State did not present sufficient evidence that he had violated the conditions of his probation.

A probation revocation hearing is in the nature of a civil proceeding and the alleged violation need be proven only by a preponderance of the evidence. When the sufficiency of a factual basis is challenged, the court on appeal neither reweighs the evidence nor rejudges the credibility of the witnesses, but looks to the evidence most favorable to the State. If there is substantial evidence of probative value to support the trial court's decision that the probationer is guilty of any violation, revocation of probation is appropriate. Proof of *any one violation* is sufficient to revoke a defendant's probation.

*Brooks v. State*, 692 N.E.2d 951, 953 (Ind. Ct. App. 1998) (emphasis added) (citations omitted), *trans. denied*.

In the present case, Randall admitted to the trial court that he had violated three of the conditions imposed in the probation order. In a similar case in which the defendant appealed the reinstatement of his suspended sentence after he admitted violating his probation, albeit through his attorney, we concluded that the admission itself warranted revocation of the defendant's probation: "So long as substantial evidence of probative value exists to support the trial court's finding that a violation occurred, we will affirm the judgment. We have already determined that [the defendant] admitted the probation violation through his attorney. This admission supports the trial court's finding that a violation occurred. Accordingly, we conclude that the evidence is sufficient." *Parker v. State*, 676 N.E. 2d 1083, 1086 (Ind. Ct. App. 1997). Randall freely admitted that he violated the mandatory probation conditions;

therefore, the evidence was sufficient and the court's decision to revoke Randall's probation was proper.<sup>1</sup>

Affirmed.

BAKER, J., and VAIDIK, J., concur.

---

<sup>1</sup> Consequently, we need not address Randall's assertion that the State failed to provide sufficient evidence as to the new charges.